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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/425,436 10/22/99 CAPPADONA

R 66635

022242 IM62/0630  
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EXAMINER

BECKER, D

ART UNIT

PAPER NUMBER

1761

DATE MAILED:


06/30/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No. <b>09/425,436</b>	Applicant(s) <b>Cappadona et al</b>
Examiner <b>Drew Becker</b>	Group Art Unit <b>1761</b>



☒ Responsive to communication(s) filed on May 12, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4, 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities: line 7 recites "a said probe". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 2 recites the limitation "the whistle" in line 4. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 7 recites the limitation "said thermal probe" in 7. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schultz [Pat. No. 5,293,813].

Schultz teaches a cooking device and method of cooking food comprising a pan (Figure 7, 1; column 7, line 39), a lid (Figure 7, 19), a knob assembly (Figure 7, 40), an aperture through the lid and knob (Figure 7, 53), and a thermometer probe which extends through the knob and lid but above a rim of the lid wherein the probe is above the food (Figure 7, 44).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz [Pat. No. 5,293,813].

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Schultz teaches a cooking device and method of cooking comprising a pan (Figure 7, 1; column 7, line 39), a lid (Figure 7, 19), a knob assembly (Figure 7, 40), an aperture through the lid and knob (Figure 7, 53), and a thermometer probe which extends through the knob and lid but above a rim of the lid (Figure 7, 44). Although not specifically recited, it would have been obvious to one of ordinary skill in the art that the cooking device of Schultz is operated by placing food in the pot and heating the bottom of the pot since this is the conventional and accepted method cooking foods in pots.

*Allowable Subject Matter*

10. Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: the cooking vessel of dependent claim 2 defines over the prior art of record by comprising a pan, a removable lid assembly, a knob assembly with a thermometer probe which extends through the aperture but above a rim of the lid, and a movable member with a dual function notch which enables removal of the movable member and a slot to enable a whistle because the prior art of record does not teach a movable member with a dual function notch which enables removal of the movable member and a slot to enable a whistle.

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12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bauer [Pat. No. 4,330,069], Boswell et al [Pat. No. 4,094,295], Stephen et al [Pat. No. 4,966,125], Shibata [Pat. No. 4,548,156], Hailey [Pat. No. 2,254,570], Ronconi et al [Pat. No. 4,509,868], and Baumgarten [Pat. No. 5,203,465] teach cooking lids with knobs, thermometers, and whistles.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew Becker whose telephone number is (703)-305-0300. The examiner can normally be reached on Monday-Thursday from 7:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703)-308-0756. The fax number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Drew Becker

June 28, 2000

  
KEITH HENDRICKS  
PRIMARY EXAMINER